Subject: File 2025-64274-I - Submission #9 – Request for Hearing on the Merits

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Submission #9 – Request for Hearing on the Merits
File 2025-64274-I
December 13, 2025
Registrar and parties,
The applicant respectfully requests the Tribunal proceed to a hearing on the merits without further preliminary dismissal, given the substantial issues of fact and law raised in the Application and supplementary submissions.
A hearing on the merits is required where genuine issues of discrimination and reprisal exist that cannot be resolved on the papers alone, as established by the Supreme Court of Canada in *Syndicat Northcrest v. Amselem*, 2004 SCC 47 at para. 2, and reaffirmed in *Multani v. Commission scolaire Marguerite-Bourgeoys*, 2006 SCC 6 at para. 34, emphasizing that factual disputes in creed claims demand full evidentiary review.
The Tribunal must allow a hearing where the applicant has presented evidence capable of supporting a finding of discrimination, as the Supreme Court held in *Trinity Western University v. Law Society of Upper Canada*, 2018 SCC 33 at para. 19 (majority), and *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12 at para. 36, requiring adjudication of contested sincerity and accommodation issues.
Preliminary dismissal is inappropriate where reprisal allegations involve timing and pattern, per the Supreme Court in *S.L. v. Commission scolaire des Chênes*, 2012 SCC 7 at para. 24, and the Ontario Court of Appeal in *Ontario Human Rights Commission v. Christian Horizons*, 2010 ONSC 2105 (Div Ct) at para. 52, mandating hearings for complex reprisal claims.
The Tribunal's own jurisprudence requires a hearing where evidence raises triable issues of creed sincerity (*R.C. v. District School Board of Niagara*, 2013 HRTO 1383 at para. 67; *Jazairi v. Ontario (Human Rights Commission)*, 1999 CanLII 3511 (ON CA) at para. 40), particularly when novel or minority beliefs are at stake.
Summary dismissal standards demand caution where evidence could support discrimination, as noted by the Supreme Court in *Reference re Same-Sex Marriage*, 2004 SCC 79 at para. 22, and the Federal Court in *Maurice v. Canada (Attorney General)*, 2002 FCT 69 at para. 41, protecting non-traditional spiritual practices.
The applicant's documented reprisal pattern—timed suppression, financial harm, and physical threats—creates factual disputes requiring a hearing, consistent with *Big M Drug Mart Ltd.*, [1985] 1 S.C.R. 295 at para. 123, and *Wall v. Judicial Committee of the Highwood Congregation of Jehovah's Witnesses*, 2018 SCC 26 at para. 31.
Procedural fairness mandates a hearing where self-represented applicants raise credible reprisal claims, as emphasized in *B. v. Ontario Human Rights Tribunal*, 2015 HRTO 116 at para. 28, and *Grant v. Canada (Attorney General)*, 2004 FC 153 at para. 55.
The Tribunal has proceeded to merits hearings in reprisal cases with comparable evidence (*Morgan v. Herman Miller Canada Inc.*, 2013 HRTO 650 at para. 45; *Mucollari v. Il Gabbiano Ristorante*, 2013 HRTO 393 at para. 38), underscoring the need for full adjudication here.
Given the Supreme Court's direction in *Amselem*, supra at para. 68, and *Loyola*, supra at para. 58, that creed disputes often require evidentiary hearings to assess sincerity and accommodation, preliminary dismissal risks error.
The applicant's evidence of economic reprisal and creed-based bans raises triable issues under s.8 and s.1 of the Code, warranting a merits hearing as in *Monrose v. Double Diamond*, 2013 HRTO 1273 at para. 52.
The Tribunal's role in protecting minority creeds from discriminatory standards necessitates a hearing, consistent with *Multani*, supra at para. 34, and *S.L.*, supra at para. 22.
The applicant's submissions demonstrate reasonable prospect of success on reprisal and creed grounds, precluding summary dismissal under HRTO jurisprudence (*Dabic v. Windsor Police Service*, 2010 HRTO 1994 at para. 10; *Forde v. Elementary Teachers' Federation of Ontario*, 2011 HRTO 1389 at para. 17).
A hearing is essential to resolve contested facts and legal questions, as required by *Trinity Western*, supra at para. 88 (dissent), and *Wall*, supra at para. 31.
Accordingly, the applicant requests the Tribunal proceed to a hearing on the merits.

Regards,
Brendan S. Rose
Applicant (self-represented)